

STATE OF SOUTH CAROLINA

(Caption of Case)

In the Matter of the Application of
Midwestern Telecommunications,
Incorporated's Application for Designation as an
Eligible Telecommunications Carrier for the
Purposes of Receiving Federal Universal
Service Support Pursuant to Section
214(e)(2) of the Telecommunications Act
of 1996

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2007 - 32 - C

(Please type or print)

Submitted by: John J. Pringle, Jr.

SC Bar Number: 11208

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)

- ☐ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☒ Telecommunications
☐ Transportation
☐ Water
☐ Water/Sewer
☐ Administrative Matter
☐ Other:

NATURE OF ACTION (Check all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request |
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer | <input type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement |
| <input type="checkbox"/> Application | <input type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment |
| <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response |
| <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery |
| <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation |
| <input type="checkbox"/> Discovery | <input checked="" type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena |
| <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff |
| <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | |
| <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | |

Print Form

Reset Form

John J. Pringle, Jr.
Direct dial: 803/343-1270
jpringle@ellislawhorne.com

July 24, 2007

FILED ELECTRONICALLY AND ORIGINAL VIA 1ST CLASS MAIL SERVICE

C. Lessie Hammonds, Esquire
Office of Regulatory Staff
Legal Department
PO Box 11263
Columbia SC 29211

RE: Midwestern Telecommunications, Incorporated's Application for
Designation as an Eligible Telecommunications Carrier for the
Purposes of Receiving Federal Universal Service Support Pursuant
to Sections 214(e)(2) of the Telecommunications Act of 1996
Docket No. 2007-32-C, Our File No. 629-11437

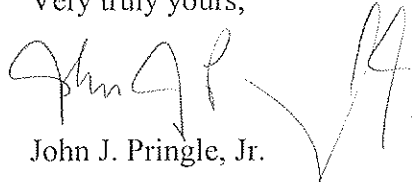
Dear Lessie:

Enclosed is the original and one copy of the **Responsive Testimony of Ikechuku Chinwah** filed on behalf of Midwestern Telecommunication, Inc. in the above-referenced docket. By copy of this letter, I am serving all parties of record in this docket and enclose my certificate of service to that effect.

Please acknowledge your receipt of this document by file-stamping the copy of this letter enclosed, and returning it in the enclosed envelope.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,


John J. Pringle, Jr.

JJP/cr

cc: The Honorable Charles L.A. Terreni (via electronic and 1st class mail service)
 Mr. Ikechuku Chinwah (via electronic mail service)
 All parties of record

Enclosures

**THIS DOCUMENT IS AN EXACT DUPLICATE OF THE E-FILED COPY SUBMITTED TO
THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING
INSTRUCTIONS.**

BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
Midwestern Telecommunications, Inc.)
Application for Designation as an Eligible)
Telecommunications Carrier for the)
Purposes of Receiving Federal Universal)
Service Support Pursuant to Section)
214(e)(2) of the Telecommunications Act)
of 1996)
_____)

Docket No. 2007-32-C

**RESPONSIVE TESTIMONY OF IKECHUKU CHINWAH
ON BEHALF OF
MIDWESTERN TELECOMMUNICATIONS, INC.**

July 24, 2007

1 **Q. PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.**

2 A. My name is Ikechuku Chinwah. I am Co-CEO and President of Midwestern
3 Telecommunications, Inc. (“The Company” or “M.T.I.”). My business address is 65 E
4 16th St, Chicago Heights IL 60411

5
6 **Q. WHAT IS THE PURPOSE OF YOUR RESPONSIVE TESTIMONY?**

7 A. The purpose of my responsive testimony is to respond to certain issues addressed by
8 witnesses for the South Carolina Office of Regulatory Staff (“ORS”) and the South
9 Carolina Telephone Coalition (“SCTC”).

10

11 **Q. PLEASE ADDRESS MR. MCDANIEL’S CONTENTION THAT MTI’S**
12 **APPLICATION IS “INCOMPLETE”.**

13 A. I want to clarify again that MTI is not seeking high-cost support by means of this
14 Application. Attached to this testimony are MTI’s responses to data requests propounded
15 by the ORS. As set out therein, MTI has been approved as a Lifeline/Linkup ETC in
16 several states. The Orders granting those applications make clear that several of the
17 requirements applicable to high-cost ETCs (and cited by Mr. McDaniel) do not apply to
18 MTI. Accordingly, MTI has not included a “five-year plan demonstrating how high-cost
19 universal service support will be used” because MTI is not seeking high-cost support.

20

21 **Q. PLEASE ADDRESS MR. MCDANIEL’S OBSERVATION REGARDING**
22 **PUBLICATION OF THE NOTICE IN THIS PROCEEDING.**

23 A. MTI has actually published notice of its Application in both the Charleston Post and
24 Courier and the Greenville News. The Commission’s DMS now reflects publication in

1 both newspapers. Accordingly, MTI hereby amends its application as necessary to
2 clarify that it seeks designation as an ETC solely in the non-rural BellSouth exchanges in
3 Greenville and Charleston.

4
5 **Q: PLEASE ADDRESS MR. BROWN'S TESTIMONY ON BEHALF OF THE SCTC.**

6 A: Mr. Brown spends a lot of time and space talking about concerns related to the high-cost
7 fund. I will let my attorney address Mr. Brown's understanding of what the FCC and the
8 Joint Board have said about the Federal USF. The orders from states where MTI has
9 been designated as an ETC solely for Lifeline/Linkup services speak for themselves.

10
11 **Q: PLEASE ADDRESS THE PUBLIC INTEREST ASPECTS OF MTI's**
12 **APPLICATION.**

13 A. As I stated in my direct testimony, the designation of MTI as an ETC will increase
14 customer choice for low income consumers eligible for Lifeline and Link-up support in
15 the Charleston and Greenville areas. These consumers will be able to obtain
16 telecommunications service, and will benefit from additional rate plan options and
17 increased access to emergency services.

18
19 **Q DOES THIS CONCLUDE YOUR RESPONSIVE TESTIMONY?**

20 A. Yes.

Exhibit 1

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-32-C

IN RE:)	
)	
Application of Midwestern)	Midwestern Telecommunication, Inc.'s
Telecommunications, Inc. for the)	Response to Office of Regulatory
Designation as an Eligible)	Staff's First Continuing Data Request
Telecommunications Carrier)	
)	

TO: C. Lessie Hammonds, Esquire, Attorney for the Office of Regulatory Staff ("ORS"):

- 1.1 Identify those states where Midwestern has been designated an Eligible Telecommunications Carrier ("ETC") pursuant to § 214(e) of the Telecommunications Act of 1996 and identify by docket or order number the state or federal regulatory decision granting such request.

RESPONSE: Midwestern is currently designated as an ETC in Alabama, Florida, Illinois, and Wisconsin.

See attached orders, wherein Alabama approved ETC's designation in Docket No. 28826 on June 30, 2006; Florida approved ETC's designation in Order No. PSC-06-0750-PAA-TX in Docket No. 060399-TX on September 5, 2006; Illinois approved ETC's designation in Docket No. 06-0038 on September 26, 2006; and Wisconsin approved ETC's designation in Docket No. 7184-TI-102 on September 18, 2006.

- 1.2 Identify any states where Midwestern has requested ETC status but was denied.

RESPONSE: Midwestern has not been denied ETC status in any state.

- 1.3 Identify any states where Midwestern has a pending application for ETC status.

RESPONSE: South Carolina.

- 1.4 Is the application for ETC status filed with the South Carolina Public Service Commission by Midwestern in this docket comparable to the applications filed in other states? If not, please describe any differences.

RESPONSE: Yes, Midwestern's application for ETC status is comparable to the applications filed in other states.

- 1.5 Please describe the means by which Midwestern provides telecommunications services in South Carolina. For example, identify whether Midwestern utilizes resale, unbundled network elements, or its own facilities (i.e. not leased from an incumbent local exchange carrier).

RESPONSE: The Company purchases services from incumbents via commercial agreement (i.e. what was deemed the "UNE-Platform" in a previous regulatory era).

- 1.6 If Midwestern utilizes any of its own facilities (i.e. not leased from another carrier), describe those facilities and their location.

RESPONSE: N/A

- 1.7 In paragraph 5 of its application, Midwestern states that the Company "offers all of the supported services enumerated under Section 254(c) using facilities obtained as UNEs from BellSouth" and thus the requirement of "facilities" as set forth in Section 214 (e)(1)(A) is satisfied. (A) Does the Company purchase the UNEs under a commercial agreement or pursuant to an interconnection agreement? (B). Please identify the leased portions of the network that the Company purchases from BellSouth (e.g. switching, loop, port, etc.).

RESPONSE: See response to Data Request 1.5. The Company purchases the platform of leased portions of the network from the incumbent.

- 1.8 Does Midwestern currently provide Lifeline or Link-up services within South Carolina?

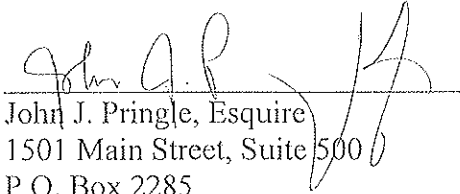
RESPONSE: MTI currently has no active customers in the state of South Carolina. If approved as an ETC, MTI plans to start aggressively advertising and providing service, first in the Charleston and Greenville areas, and eventually throughout the entire AT&T service area in the State of South Carolina.

1.9 Could Midwestern provide Lifeline or Link-up services through a resale agreement?

RESPONSE: Yes.

Respectfully submitted,

ELLIS, LAWHORNE & SIMS, P.A.

A handwritten signature in dark ink, appearing to read "John J. Pringle", is written over a horizontal line. The signature is stylized with a large, looped "P" at the end.

John J. Pringle, Esquire
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Attorneys for Midwestern
Telecommunications, Inc.

July 13, 2007
Columbia, South Carolina

**BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

In the Matter of the Application of)
Midwestern Telecommunications, Inc.)
Application for Designation as an Eligible)
Telecommunications Carrier for the)
Purposes of Receiving Federal Universal)
Service Support Pursuant to Section)
214(e)(2) of the Telecommunications Act)
of 1996)
_____)

Docket No. 2007-32-C

This is to certify that I have caused to be served this day, one (1) copy of **Midwestern Telecommunication, Inc.'s Response to Office of Regulatory Staff's First Continuing Data Request** via electronic mail service and by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

C. Lessie Hammonds, Esquire
Office of Regulatory Staff
Legal Department
PO Box 11263
Columbia SC 29211

Margaret Fox, Esquire
McNair Law Firm, PA
PO Box 11390
Columbia SC 29211

The Honorable Charles L.A. Terreni
Chief Clerk
South Carolina Public Service Commission
Post Office Drawer 11649
Columbia, South Carolina 29211



Carol Roof
Paralegal

July 13, 2007
Columbia, South Carolina

Alabama Public Service Commission Orders

MIDWESTERN
TELECOMMUNICATIONS, INC.,

PETITION: For designation as an eligible
telecommunications carrier.

Petitioner

DOCKET 28826

ORDER APPROVING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

BY THE COMMISSION:

By Petition filed on or about April 21, 2006, Midwestern Telecommunications, Inc., (“Midwestern”) sought designation as an eligible telecommunications carrier (“ETC”) for purposes of receiving high cost, low income and health care support from the federal Universal Service Fund. The petition of Midwestern limited the geographic scope of the ETC designation sought to the areas of Alabama served by non-rural incumbent local exchange carrier BellSouth Telecommunications, Inc. (“BellSouth”). Notice of Midwestern’s pending petition was published by the Commission on April 28, 2006. Said notice informed interested parties of their opportunity to submit comments in response to the petition of Midwestern on or before May 31, 2006. The Commission did not receive any comments regarding Midwestern’s petition.

As required by 47 U.S.C. §214(e), Midwestern has represented to the satisfaction of the Commission that it: (1) is a common carrier that will offer the services supported by the federal Universal Service support mechanisms pursuant to §254(c) of the Telecom Act of 1996 throughout the service area for which it seeks ETC designation; (2) will offer such services using a combination of its own facilities and the resale of another carrier’s services; and (3) will advertise the availability of such services and the charges therefore using media of general distribution. Midwestern further represented that it will expend any and all Universal Service funding received only for the provision, maintenance and upgrading of facilities and services for which Universal Service support is intended.

Given the foregoing representations of Midwestern, the Commission finds that the public interest

will be served by designating Midwestern as an eligible telecommunications carrier for the areas of Alabama served by BellSouth Telecommunications, Inc. The Commission further certifies that Midwestern will expend any federal high-cost Universal Service support received exclusively for the provision, maintenance and upgrading of facilities and services for which such support is intended. We note that Midwestern will be required as an ETC in Alabama to provide Lifeline and Linkup services to eligible requesting customers according to the parameters established for such services by the Commission's Orders entered in Docket 25980. [1]

IT IS SO ORDERED BY THE COMMISSION.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders as this Commission may find just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 30TH day of June, 2006.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

Press the Back Arrow to Return to the Search
Return to PSC Home - <http://www.psc.state.al.us/index.htm>

[1] *In Re: Implementation of the Universal Service Requirements of § 254 of the Telecommunications Act of 1996. In particular, see pp. 19-27 of the Commission's November 25, 1997 Order in Docket 25980.*

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for designation as eligible telecommunications carrier (ETC) by Midwestern Telecommunications Inc.	DOCKET NO. 060399-TX ORDER NO. PSC-06-0750-PAA-TX ISSUED: September 5, 2006
--	---

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILJO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING MIDWESTERN TELECOMMUNICATIONS INC.'S PETITION
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

On May 17, 2006, Midwestern Telecommunications Inc. (MTI) petitioned this Commission for designation as an Eligible Telecommunications Carrier (ETC) in the State of Florida. MTI is requesting that it be granted ETC status in 202 non-rural exchanges in BellSouth Telecommunications, Inc.'s (BellSouth) territory. This is the sixth competitive local exchange carrier (CLEC) ETC petition to be brought before this Commission for consideration.¹

MTI is a Commission-certificated CLEC which provides local exchange services in BellSouth's service area. MTI has indicated that it has the ability to provide all of the supported

¹ Order PSC-05-0324-PAA-TX, issued March 21, 2005, Docket No. 041302-TX, In Re: Petition for Designation as Eligible Telecommunications Carrier by Knology of Florida, Inc.; Order PSC-05-1255-PAA-TX, issued December 27, 2005, Docket No. 050483 TX, In Re: Petition for designation as Eligible Telecommunications Carrier by Budget Phone, Inc.; Order PSC-06-0298-PAA-TX, issued April 14, 2006, Docket No. 050542, In Re: Petition for Designation as Eligible Telecommunications Carrier by Ganaco, Inc. d/b/a American Dial Tone.; Order PSC-06-0350-PAA-TX, issued April 25, 2006, Docket No. 050889-TX, In Re: Petition for Designation as Eligible Telecommunications Carrier by Nexus Communications, Inc. d/b/a Nexus Communications TSI, Inc.; Order PSC-06-0436-PAA-TX, issued May 22, 2006, Docket No. 060144-TX, In Re: Petition for Designation as Eligible Telecommunications Carrier by Vilaire Communications, Inc.

services outlined in Section 254(c) of the Telecommunications Act of 1996 utilizing the facilities obtained through a commercial facilities agreement (CFA) provided by BellSouth. Upon designation as an ETC, MTI indicates that it will participate in and offer Lifeline and Link-Up programs to qualified low income consumers. Additionally, MTI has committed to publicizing the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services.²

MTI is headquartered in Chicago Heights, Illinois and is authorized to conduct business as a foreign corporation in the State of Florida. MTI has indicated that it provides service to approximately 1,000 customers in BellSouth's territory. It estimates that 90% of customers receive service via prepaid arrangements. MTI also stated that it does not require its customers to subscribe to its long-distance service or make a deposit in order to receive services. MTI further indicates that its accounts with the Federal Communications Commission (FCC) and Universal Service Administrative Company are current. MTI is not aware of any outstanding complaints or violations with the FCC.

MTI has stated that it is not planning to seek high-cost universal service funding if it is designated as an ETC in Florida. Since MTI is not seeking any high cost universal service funding, and its primary purpose in requesting ETC status in Florida is to provide Lifeline and Link-Up service, it would be beneficial to grant ETC status to MTI. It would have little, if any, effect on the size of the universal service fund³, and it would enhance the availability of Lifeline and Link-Up services in Florida.

We have authority under Section 364.10(2), Florida Statutes, to decide a petition by a CLEC seeking designation as an eligible telecommunications carrier pursuant to 47 C.F.R. § 54.201.

II. Analysis

The FCC rules provide that carriers designated as ETCs shall, throughout the designated service area: (1) offer the services that are supported by federal universal support mechanisms either using their own facilities or a combination of their own facilities and the resale of another carrier's services and, (2) advertise the availability of such services and the related charges therefore using media of general distribution. See CFR §54.201(d).

MTI has identified a total of 202 BellSouth wire centers in which it wishes to offer the services that are supported by federal universal service support mechanisms. (See Attachment A, attached hereto and incorporated herein by reference.)

² See 47 C.F.R. §§ 54.401-54.417 — Universal Service Support for Low Income-Consumers.

³ See FCC 05-46 (¶54) - Federal-State Joint Board on Universal Service — Impact on the Fund. "As the Commission has found in the past, analyzing the impact of one ETC on the overall fund may be inconclusive. Indeed, given the size of the total high-cost fund — approximately \$3.8 billion a year — it is unlikely that any individual ETC designation would have a substantial impact on the overall size of the fund."

ETC Certification Requirements

CFR Rule 54.201(c), addresses a state commission's responsibilities related to ETC designation, stating:

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

To qualify as an ETC, telecommunications carriers must provide nine services identified in CFR Rule 54.201(d)(1).

- (1) Voice grade access to the public switched network Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call;
- (2) Local Usage Local usage indicates the amount of minutes of use of exchange service, provided free of charge to end users;
- (3) Dual tone multi-frequency signaling or its functional equivalent Dual tone multi-frequency ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, thus shortening call set-up time;
- (4) Single-party service or its functional equivalent Single party service is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;
- (5) Access to emergency services Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations;
- (6) Access to operator services Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion, of a telephone call;

- (7) Access to interexchange service Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;
- (8) Access to directory assistance Access to directory assistance is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- (9) Toll limitation for qualifying low-income consumers Toll limitation or Blocking restricts all direct dial toll access.

In addition to providing the above services, ETCs must advertise the availability of such services and the associated charges using media of general distribution.

III. Conclusion

MTI is a certificated CLEC that offers local exchange service and meets the statutory facilities requirement of universal service by leasing the physical components of the telecommunications network necessary to provide the nine services identified in CFR Rule 54.201(d)(1) through its CFA with BellSouth.

MTI has acknowledged the requirements of the Florida Lifeline program and has agreed to adhere to the program which provides qualified customers a total of \$13.50 in Lifeline assistance credits consisting of: \$6.50 in federal subscriber line charges, \$1.75 in federal support for states that have approved the credit, and \$1.75 which is a 50% match of federal support for having a state lifeline program requiring a \$3.50 credit under the Florida eligibility criteria. MTI indicates that it will provide the \$3.50 credit to qualified clients, advertise the availability of Lifeline, and begin offering these services within 2-4 weeks of receiving ETC status.

By granting MTI's petition for designation as an ETC, MTI may offer low income individuals another telecommunications choice in BellSouth's service areas. MTI has indicated that it will abide by all Florida Statutes, Rules, and Commission Orders regarding ETCs. Since MTI is not seeking any high cost universal service funding and its purpose in requesting ETC status in Florida is to primarily provide Lifeline and Link-Up service, we find it would be beneficial to grant ETC status to MTI. Providing Lifeline and Link-up service, which facilitates the availability of basic phone service to Florida's low-income customers, could have a positive effect on Lifeline participation rates. Therefore, we hereby grant MTI's petition for designation as an ETC in the BellSouth non-rural wire centers, as identified in Attachment A.

If no person whose substantial interests are affected by this Proposed Agency Action files a protest within 21 days of the issuance of this Order, then this docket shall be closed upon issuance of a Consummating Order.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Midwestern Telecommunications Inc.'s petition for designation as an eligible telecommunications carrier in BellSouth's non-rural wire centers as identified in Attachment A, attached hereto and incorporated herein by reference, is hereby granted. It is further

ORDERED that if no person whose substantial interests are affected by this Proposed Agency Action files a protest within 21 days of the issuance of this Order, then this docket shall be closed upon issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 5th day of September, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

This is a facsimile copy. Go to the Commission's Web site,
<http://www.floridapsc.com> or fax a request to 1-850-413-
7118, for a copy of the order with signature.

(S E A L)

KS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 26, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

ATTACHMENT A

FL Wire Center (8-digit CLLI)	FL Wire Center (8-digit CLLI)	FL Wire Center (8-digit CLLI)	FL Wire Center (8-digit CLLI)	FL Wire Center (8-digit CLLI)
BCRTFLBT	COCOFLME	MIAQFL06	BKVFLJF	
BCRTFLMA	DBRYFLDL	MICCFLLB	BLDWFLMA	
DYBHFLFN	DBRYFLMA	MLBRFLMA	BNNLFLMA	
FTLDFL92	DELDFLMA	MNDRFLAV	BRSNFLMA	
FTLDFLCR	DLBHFLKP	MNDRFLLO	CDKYFLMA	
FTLDFLCY	DLBHFLMA	MRTHFLVE	CFLDFLMA	
FTLDFLMR	DRBHFLMA	NDADFLBR	CHPLFLJA	
FTLDFLOA	DYBHFLMA	NDADFLGG	CNTMFLLE	
FTLDFLSF	DYBHFL0B	NKLRFLMA	CSCYFLBA	
FTLDFLSG	DYBHFL0S	NSBHFLMA	DLSPFLMA	
FTLDFLSU	DYBHFLPO	ORLDFLAP	DNLNFLWM	
HLWDFLHA	EGLLFLBG	ORLDFLCL	EORNFLMA	
HLWDFLMA	EGLLFLIH	ORLDFLPC	FTGRFLMA	
JCBHFLSP	FLBHFLMA	ORLDFLPH	FTPRFLMA	
JCVLFLCL	FRBHFLFP	ORLDFLSA	GCSPFLCN	
JCVLFLFC	FTLDFLJA	ORPKFLMA	GCVLFLMA	
JCVLFLJT	FTLDFLPL	ORPKFLRW	GENVFLMA	
JCVLFLSM	FTLDFLWN	OVIDFLCA	HAVNFLMA	
KYWSFLMA	GLBRFLMC	PAHKFLMA	HLNVFLMA	
MIAMFLAE	GSVLFLMA	PCBHFLNT	HMSTFLAF	
MIAMFLAP	GSVLFLNW	PMBHFLCS	HMSTFLEA	
MIAMFLBA	HBSDFLMA	PMBHFLFE	HMSTFLHM	
MIAMFLBC	HLWDFLPE	PMBHFLMA	HMSTFLNA	
MIAMFLBR	HLWDFLWH	PNCYFLMA	HWTHFLMA	
MIAMFLDB	HTISFLMA	PNSCFLBL	JAY FLMA	
MIAMFLFL	ISLMFLMA	PNSCFLFP	JCVLFLLF	
MIAMFLGR	JCBHFLAB	PNSCFLHC	JCVLFLOW	
MIAMFLIC	JCBHFLMA	PNSCFLPB	KYHGFLMA	
MIAMFLKE	JCVLFLAR	PNSCFLWA	LKCYFLMA	
MIAMFLME	JCVLFLBW	PNVDFLMA	LYHNFL0H	
MIAMFLNM	JCVLFLIA	PRRNFLMA	MCNPFLMA	
MIAMFLPB	JCVLFLNO	PTSLFLSO	MDBGFLPM	
MIAMFLPL	JCVLFLRV	SNFRFLMA	MLTNFLRA	
MIAMFLWD	JCVLFLSJ	STAGFLBS	MNDRFLLW	
MIAMFLWM	JCVLFLWC	STAGFLSH	MNSNFLMA	
NDADFLAC	JPTRFLMA	STRTFLMA	MXVLFLMA	
NDADFL0L	KYLRFLLS	TTVLFLMA	NWBYFLMA	
ORLDFLMA	KYLRFLMA	VRBHFLBE	OKHLFLMA	
PMBHFLNP	LKMRFLHE	VRBHFLMA	OLTWFLLN	
PMBHFLTA	LKMRFLMA	WPBHFLGA	PACEFLPV	
WPBHFLAN	MIAMFLAL	WPBHFLGR	PLCSFLMA	
	MIAMFLCA	WPBHFLHH	PLTKFLMA	
	MIAMFLHL	WPBHFLLE	PMPKFLMA	
BCRTFLSA	MIAMFLNS	WPBHFLRB	PNCYFLCA	
BLGLFLMA	MIAMFL0L	WWSPFLSH	PRSNFLFD	
BYBHFLMA	MIAMFLRR		PTSLFLMA	
CCBHFLAF	MIAMFLSH	ARCHFLMA	SBSTFLFE	
CCBHFLMA	MIAMFLSO	BGPIFLMA	SBSTFLMA	
COCOFLMA				

FL Wire Center (8-digit CLLI)
SGKYFLMA
STAGFLMA
STAGFLWG
SYHSFLCC
TRENFLMA
VERNFLMA
WELKFLMA
WPBHFLRP
WWSPFLHI
YNFNFLMA
YNTWFLMA
YULEFLMA

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Midwestern Telecommunications,	:	
Inc.	:	
	:	
Application for Designation as an Eligible	:	
Telecommunications Carrier for Purpose	:	06-0038
of Receiving Federal Universal Service	:	
Support pursuant to Section 214(e)(2) of	:	
the Telecommunications Act of 1996.	:	

ORDER

By the Commission:

I. PROCEDURAL HISTORY

On January 17, 2006, Midwestern Telecommunications, Inc. ("MTI"), filed its Application for Eligible Telecommunications Carrier ("ETC") status under 47 USC § 214(e)(2), part of the Federal Telecommunications Act of 1996 ("Federal Act"). ETCs are eligible under the Federal Act to receive federal Universal Service Support funding. MTI seeks ETC status in order to offer Lifeline and Link-Up support to its qualifying customers. MTI is a telecommunications carrier certified by the Commission to provide resold and facilities-based telecommunications services in Illinois areas served by AT&T Illinois ("AT&T").

Pursuant to proper notice, hearings were conducted on February 23, April 5, and July 6, 2006 before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois. MTI entered an appearance through its Secretary, Mr. Ikechuku Chinwah. AT&T, which had intervened in this proceeding, and Commission Staff appeared through their respective legal counsel.

In its Application, MTI contends that it meets the requirements for ETC status contained in Section 214(e). However, on March 17, 2005, the Federal Communications Commission issued its "ETC Order," Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC-05-46, which clarified existing requirements and imposed additional requirements that the FCC will use in evaluating applications for ETC designation. The FCC encouraged the states to voluntarily adopt the FCC's additional requirements. ETC Order, para. 1. The MTI Application did not address the FCC's additional requirements.

On March 21, 2006, Staff filed a Response to the Application, assessing the Application in light of the requirements in the Federal Act and the ETC Order. Following

Staff's Response, the parties held off-the-record conferences. On July 24, 2006, MTI filed additional evidence, in the form of an Affidavit from Mr. Chinwah (Applicant's Exhibit 1), evincing agreement with, and commitment to, Staff's viewpoint with respect to certain federal requirements.

The evidentiary record was marked heard and taken on August 2, 2006.

II. MTI'S BACKGROUND & APPLICATION

MTI was certified by the Commission to resell telecommunications services in Docket 97-0132. It was certified to provide facilities-based telecommunications services in Docket 01-0830. MTI currently contributes to the Universal Service Fund ("USF"), but is not drawing from the fund since it is not designated as an ETC for the areas it serves in Illinois.

The federal USF consists of four programs, each administered by the Universal Service Administrative Company ("USAC"): 1) financial support to carriers serving high cost areas; 2) the E-rate program, which provides discounted services (local and long distance telephone service, Internet access, and internal connections) to eligible schools and libraries; 3) assistance to low income consumers (discounted installation and monthly telephone services); and 4) discounted services to rural health care providers.

MTI acknowledges that the service area in which it seeks ETC status has not been designated a high cost area. Accordingly, MTI limits its requested USF support to the federal USF low income support program. MTI certifies that all low income USF funding it receives will be used to subsidize rates for its Lifeline and Link-Up customers, consistent with 47 CFR §54.403.

III. ANALYSIS

A. Federal Statutory Requirements

In Section 214(e)(2) of the Federal Act, Congress authorized state commissions to designate a common carrier as an ETC if the carrier meets the requirements of Section 214(e)(1). Section 214(e)(1) provides:

(1) Eligible Telecommunications Carriers. A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received —

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either

using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

Thus, a telecommunications carrier may be designated as an ETC, and thereby receive universal service support, so long as it offers, within a service area, the services that are supported by federal universal service support mechanisms under Section 254(c) of the Act, and so long as it adequately advertises the availability of, and the charges for, such services. As we consider whether MTI satisfies the foregoing requirements, the Commission notes that MTI, as the applicant for ETC designation, bears the burden of proving that it has met each of the necessary elements required for such designation.

1. Service Area

Section 54.207 of the FCC's rules defines a "service area" as a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms." 47 C.F.R. § 54.207(a). For service areas served by a non-rural incumbent local exchange company ("ILEC"), there are no restrictions on how a Commission identifies a "service area" for purposes of designating a competitive ETC.

MTI proposes a service area consisting of each of the AT&T wire centers in Illinois designated in Attachment A to the Application. No party opposes MTI's service area designation. MTI seeks designation solely for certain "non-rural" wire centers in AT&T's service territory. The Commission finds that MTI has met the service area requirement.

2. Required Service Offerings

The services to be supported by the USF under Section 254(a) are principally enumerated in Section 54.101(a) of the FCC's Rules, 47 CFR 54.101(a), as follows:

- (a) Voice grade access to the public switched network;
- (b) Local usage;
- (c) Dual tone multi-frequency signaling or its functional equivalent;
- (d) Single-party service or its functional equivalent;
- (e) Access to emergency services;

- (f) Access to operator services;
- (g) Access to interexchange service;
- (h) Access to directory assistance; and
- (i) Toll limitation for qualifying low-income consumers.

Regarding **voice-grade access to the public switched network**, "voice grade access" is defined in Section 54.101(a) as a functionality that enables a user of telecommunications services to transmit voice communications (including signaling the network that the caller wishes to place a call), and to receive voice communications (including receiving a signal indicating there is an incoming call). For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz. Through interconnection with AT&T, MTI is able to originate and terminate telephone service for all of its subscribers. All customers are able to place and receive calls on the public switched network within the specified bandwidth. MTI Application at 4.

Second, "**local usage**" means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end users. The FCC has not quantified any minimum amount of local usage required to be included in a universal service offering. MTI's residential plans offer unlimited local usage. MTI Application at 4. MTI's service also includes local usage that allows customers to originate and terminate calls within the local calling area without incurring toll charges.

Additionally, ETC applicants like MTI must offer rate plans and local usage comparable to the service plans offered by the ILEC in the area. Comparable service is discussed in subsection III.B.1 of this Order, below.

Third, with respect to **dual tone multi-frequency signaling ("DTMF") or its functional equivalent**, DTMF facilitates the transportation of signaling through the network, shortening call set-up time. MTI provides touchtone dialing service, fulfilling the DTMF requirement. MTI Application at 4.

Fourth, concerning **single-party service or its functional equivalent**, "Single-party service" is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed (or, in the case of wireless telecommunications carriers - which uses spectrum shared among users to provide service - a dedicated message path for the length of a user's particular transmission). MTI provides a dedicated message path for the entire length of customer calls. MTI Application at 4.

Fifth, "**access to emergency services**" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a Public Safety Answering Point

("PSAP") operated by local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information, which enables the PSAP to call back if the call is disconnected, and automatic location information, which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems.

Through its interconnection with AT&T, customers have access to 911 services. All 911 traffic is handled in accordance with 83 Illinois Administrative Code Part 725 and the Emergency Telephone System Act. MTI has an established working relationship with the 911 systems when providing local telephone service, and has coordinated with AT&T and local 911 systems to provide transparent service for local exchange customers. MTI Application at 4-5.

Sixth, **"access to operator services"** is defined as access to any automatic or live assistance to a consumer to arrange for call billing or completion, or both. MTI offers its customers access to operator services for placing and billing telephone calls, including collect calls, calling card calls, credit card calls, person-to-person calls, and third-party calls. MTI Application at 5.

Seventh, **"access to interexchange service"** is defined as the use of the loop, as well as that portion of the switch paid for by the end user (or the functional equivalent of these network elements in the case of a wireless carrier) necessary to access an interexchange carrier's network. MTI provides all its customers the ability to make and receive interexchange or toll calls through its interconnection arrangement with AT&T. MTI Application at 5.

Eighth, **"access to directory assistance"** is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings. MTI provides all its customers with access to information contained in directory listings by dialing "4-1-1" or "555-1212". MTI Application at 5.

Ninth, regarding **toll limitation for qualifying low-income consumers**, FCC rules oblige ETCs to offer "Toll Limitation" (which the FCC defines as including either "Toll Blocking" or "Toll Control") to qualifying Lifeline and Link-Up universal service customers, at no charge. MTI provides all its customers with access to toll limitation. MTI Application at 5.

Additionally, FCC rules obligate an ETC to provide the low income support programs known as Lifeline and Link-Up and advertise the availability of those services in a manner reasonably designed to reach those likely to qualify for them. 47 C.F.R. §54.405 & 54.411. No party provided evidence or argument in opposition to MTI's evidence regarding the foregoing supported services. Accordingly, the

Commission finds that MTI offers and has the capability to provide each of the nine supported services in each of the study areas for which it seeks ETC status.

3.) Required Advertising

In addition to the foregoing service offerings required by Section 214(e)(1)(B) of the Federal Act, FCC rules (CFR Parts 54.405 and 54.411) provide that an ETC must also publicize the availability of Lifeline and Link-Up services "in a manner reasonably designed to reach those likely to qualify for the service." Lifeline and Link-Up are the very programs MTI intends to support with ETC funding. MTI provided evidence showing that it will advertise the availability and terms of its services in conformance with all applicable Commission rules, including 83 Illinois Administrative Code Part 757. Applicant's Exhibit 1 at 2; MTI Application at 5-6. Thus, MTI has shown that it will "advertise the availability of such services and the charges therefor using media of general distribution." No party challenged MTI's evidence. Therefore, the Commission concludes that MTI has demonstrated that it will publicize the availability of Lifeline and Link-up in a manner reasonably designed to reach those likely to qualify for the service, as directed by CFR §54.405 and 54.411.

Finally, the Commission concludes that the commitments made by MTI on the above issues shall be added to the list of conditions being imposed in this Order. (See Section III.C. of this Order, below).

B. FCC's ETC Order

On March 17, 2005, the FCC issued the ETC Order, described above, to clarify existing requirements and *impose additional federal requirements* that the FCC will use in evaluating future *federal* applications for ETC designation. The FCC described its additional guidelines, which are codified at 47 CFR §54.202, as "the minimum requirements" it would use in designating a carrier as an ETC, and urged that state commissions apply these guidelines in their evaluation of ETC applications properly before such commissions. However, the FCC did not obligate state commissions to employ the additional guidelines. ETC Order at para's. 58-64.

Generally speaking, the additional FCC guidelines require that an ETC applicant demonstrate: (1) a commitment and ability to provide services, including service to all customers within its proposed service area; (2) that it will remain functional in emergency situations; (3) that it will satisfy consumer protection and service quality standards; (4) that it offers local usage comparable to that offered by the ILEC; and (5) an understanding that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to section 214(e)(4) of the Federal Act. Further, the FCC augmented its existing annual *certification and reporting requirements*, to further the FCC's goal of ensuring that ETCs provide

supported services throughout their service territories. Moreover, the FCC expanded its view of the *public interest requirement* for prospective additional ETCs.

Although the additional requirements in the ETC Order are not binding on us, Staff recommends that the Commission adopt and apply similar requirements. Staff Response to MTI's Application, at 12-15. In Staff's opinion, the FCC requirements are, for the most part, appropriate and reasonable. Had the FCC not issued its ETC Order, Staff believes the Commission should have and would have decided to apply comparable standards. Staff also recommends that the Commission require an applicant to certify that it has, can and will comply with all applicable ICC Code Parts as a condition for ETC designation. *Id.* We agree. Consistent with our rulings in Dockets 06-0003 and 04-0454/04-0455/04-0456 (consol.), the Commission holds that it will use the guidelines from the FCC's ETC Order as the framework for considering ETC designations and for establishing whether an application is in the public interest. The following analysis implements that holding.

1. Specific Additional FCC Performance Requirements

After discussions with the Staff and AT&T, and in the interest of providing assistance to low-income customers, MTI supplied evidence tailored to the FCC's additional requirements. Applicant's Exhibit 1. In the following subsections of this Order, the Commission considers whether MTI's evidence demonstrates the intended compliance.

First, pursuant to the ETC Order, an ETC applicant shall commit to providing service throughout its proposed designated service area to all customers making a reasonable request for service. 47 CFR §54.202(a)(1)(A). The FCC explained this requirement more fully in Paragraph 22 of the ETC Order:

If the ETC's network already passes or covers the potential customer's premises, the ETC should provide service immediately. In those instances where a request comes from a potential customer within the applicant's licensed service area but outside its existing network coverage, the ETC applicant should provide service within a reasonable period of time if service can be provided at reasonable cost by: (1) modifying or replacing the requesting customer's equipment; (2) deploying a roof-mounted antenna or other equipment; (3) adjusting the nearest cell tower; (4) adjusting network or customer facilities; (5) reselling services from another carrier's facilities to provide service; or (6) employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment... If an ETC applicant determines that it cannot serve the customer using one or more of these methods, then the ETC must

report the unfulfilled request to the Commission within 30 days after making such determination.

MTI commits to providing service throughout its proposed ETC-designated service area to all customers. Applicant's Exhibit 1 at 2. No party questions that commitment. Consequently, the Commission concludes that MTI supplied sufficient evidence demonstrating its present ability to provide service throughout its proposed ETC-designated service area to all customers who make a reasonable request for service. MTI's commitment shall be added to the list of conditions being imposed in this Order.

That said, the FCC also expects an applicant to demonstrate its ability to furnish services to all customers in the *foreseeable future*. Thus, an ETC applicant shall submit to the FCC a five-year plan describing, with specificity, proposed improvements or upgrades to the applicant's network on a wire-center-by-wire-center basis throughout its proposed designated service area. ETC Order, para. 23. The FCC recommended that state commissions apply a similar approach, but rejected suggestions for absolute uniformity, in order to allow for consideration of "unique circumstances" and "fact-specific circumstances of the carrier and the designated service area." *Id.*, para's. 23-24.

Staff states that deviation from the five-year plan requirement is only warranted when an ETC applicant's requested ETC serving territory would qualify *only* for "low income" USF support and *no* "high-cost" USF support. Staff Response at 15-16. Staff explains that this occurs when the applicant's requested service territory is also the territory of an ILEC that itself receives *only* "low income" USF support. *Id.*

Through discussions with Staff and AT&T, MTI committed to the following conditions, in lieu of providing the five-year networking plan at this time: a) all "low income" USF funding received will be used to support subsidized rates for Lifeline and LinkUp customers; b) MTI will provide written notification to Staff within 3 weeks of any change and/or circumstance that would render MTI eligible to receive USF "high cost" support; and c) in the event of any such change and/or circumstance, MTI will file with the Commission, within 6 weeks of such change, a revised five-year spending plan to account for appropriate use of all "High Cost" USF support received. Applicant's Exhibit 1 at 2. Staff recommends that the failure of MTI to meet these criteria, or the failure to satisfy any other applicable requirements, should result in the revocation of MTI's ETC designation (upon proper notice and hearing). Staff Response to Application at 16-17.

Because MTI is requesting a designated service area in which high cost support is not currently available, and seeks ETC designation solely for reimbursement of subsidized Lifeline and LinkUp services to eligible customers, the Commission agrees with the parties and finds that submission of a Five-Year Network Improvement Plan is not required at this time. MTI should report annually the amount of USF funding received. MTI also should report annually the amount of subsidization provided to Lifeline and LinkUp customers. This will provide the Commission an accurate

accounting of the receipts and disbursements of federal USF support by MTI. However, should MTI become eligible to receive high cost support, it should abide by the multi-year network improvement plan requirement. The Commission finds that the commitments detailed here are sufficient and should be included in the list of conditions imposed in this Order.

Second, the ETC Order obliges an applicant to demonstrate its ability to remain functional in emergency situations, as explained more fully in Paragraph 25 of that order:

Specifically, in order to be designated as an ETC, an applicant must demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. We believe that functionality during emergency situations is an important consideration for the public interest.

Because MTI leases facilities from AT&T to serve its customers, it asserts that it has the same ability to remain functional in emergency situations as AT&T (including access to a reasonable amount of back-up power to ensure functionality without an external power source, rerouting of traffic around damaged facilities, and the capability to manage traffic spikes resulting from emergency situations). Applicant's Exhibit 1 at 1. No party disagrees. The Commission finds that MTI has met its burden on this issue.

Third, An ETC Applicant shall demonstrate that it will satisfy applicable consumer protection and service quality standards. 47 CFR §54.202(a)(3). As the FCC explains in Paragraph 28 of the ETC Order:

We find that an ETC applicant must make a specific commitment to objective measures to protect consumers. Consistent with the designation framework established in the Virginia Cellular ETC Designation Order and Highland Cellular ETC Designation Order and as suggested by commenters, a commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement for a wireless ETC applicant seeking designation before the Commission. We will consider the sufficiency of other commitments on a case-by-case basis. . In addition, an ETC applicant, as described *infra*, must report information on consumer complaints per 1,000 handsets or lines on an annual basis.

MTI provided evidence that it will satisfy applicable consumer protection and

service quality standards. Applicant's Exhibit 1 at 3. As part of its certification requirements for local and interexchange services, MTI must abide by the service quality and consumer protection rules set forth in Code Parts 730, 731, 732 and 735. (MTI, however, was granted a waiver on Part 735.180, regarding the publication of directories.) In addition, MTI commits to reporting information on consumer complaints per 1,000 lines on an annual basis, consistent with the ETC Order. Applicant's Exhibit 1 at 3. No party questions MTI's evidence or commitments concerning the applicable standards. Consequently, the Commission concludes that MTI has demonstrated that it will satisfy appropriate consumer protection and service quality standards. This finding is conditioned on MTI's continuing compliance with the commitments it made in its certification dockets and in this proceeding.

Fourth, An ETC Applicant shall demonstrate that it offers a local usage plan comparable to the one offered by the ILEC in the service areas for which it seeks designation. The FCC has not adopted a specific local usage threshold.

MTI offers two residential service packages that are comparable to certain AT&T calling plans. MTI offers a plan that includes unlimited local calling, five vertical features, and 300 minutes of local toll calling, for \$39.95/month. It also offers a plan that includes unlimited local calling and eight vertical features for \$48.95/month. MTI emphasizes, with respect to comparability, that its local calling packages are offered to all who apply, regardless of past credit history, which leads to a very large churn and default rate. Consequently, its cost of doing business may be higher than an ILEC's. Applicant's Exhibit 1 at 1-2. Moreover, MTI commits to continue offering local usage plans comparable to the ILEC's plans. *Id.*, at 3. Therefore, the Commission finds that MTI's local usage and rate plans meet the comparable local usage and rate plan requirement.

Fifth, an ETC Applicant shall certify its acknowledgement that the FCC may require it to provide equal access to long distance carriers if no other ETC is doing so within the service area. ETC Order at para 35; 47 CFR §54.202(a)(5). MTI certifies that it currently provides equal access to long distance carriers for all of its customers in its designated service area and will continue to provide such access. Applicant's Exhibit 1 at 3. No party challenged MTI's evidence or commitment. The Commission finds that MTI meets the equal access requirement.

2. Additional FCC Certification and Reporting Requirements

In paragraph 69 of its ETC Order, the FCC identified the following additional annual reporting and certification requirements for ETCs (some of which simply require annual certification of existing ETC performance requirements):

- a) progress reports on the ETC's five-year service quality improvement plan, including maps detailing progress towards meeting its plan targets, an explanation of how much universal service support was received and how the

support was used to improve signal quality, coverage, or capacity; and an explanation regarding any network improvement targets that have not been fulfilled. The information should be submitted at the wire center level;

b) detailed information on any outage lasting at least 30 minutes, for any service area in which an ETC is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end users served in a designated service area, or that potentially affect a 911 special facility (as defined in subsection (e) of section 4.5 of the Outage Reporting Order). An outage is defined as a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network. Specifically, the ETC's annual report must include: 1) the date and time of onset of the outage; 2) a brief description of the outage and its resolution; 3) the particular services affected; 4) the geographic areas affected by the outage; 5) steps taken to prevent a similar situation in the future; and 6) the number of customers affected;

c) the number of requests for service from potential customers within its service areas that were unfulfilled for the past year. The ETC must also detail how it attempted to provide service to those potential customers;

d) the number of complaints per 1,000 handsets or lines;

e) certification that the ETC is complying with applicable service quality standards and consumer protection rules, e.g., the CTIA Consumer Code for Wireless Service;

f) certification that the ETC is able to function in emergency situations;

g) the amount of USF funding received by MTI during the reporting period;

h) certification that the ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and

i) certification that the carrier acknowledges that the Commission may require it to provide equal access to long

distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

The FCC encouraged state commissions to adopt the foregoing reporting requirements and to apply them to all ETCs, not merely competitive ETCs. ETC Order, para. 71. We will follow the FCC's recommendation, and we find that MTI has committed to complying with all of the applicable annual reporting requirements imposed on a recipient of low cost support. Applicant's Exhibit 1, at 3. The Commission concludes that MTI must file reports with the Commission on an annual basis, consistent with MTI's commitment

3.) The Public Interest Requirement

Section 214(e)(2) of the Federal Act requires a finding that additional ETC designations be in the public interest:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest....

Previously, the FCC had not expressly concluded that the public interest requirement applies to ETC applicants (like MTI here) that propose to serve only non-rural areas. However, in the ETC Order, the FCC held that the public interest requirement applies to rural and non-rural areas alike. ETC Order, para. 42. Staff recommends that this Commission concur with the FCC on this issue, with the proviso (articulated by the FCC) that the public interest test may differ depending on whether the area to be served is rural or non-rural. Staff Response to Application at 17. We will do so.

Also In the ETC Order, the FCC discussed how the public interest test would be applied in cases before it. After acknowledging that Congress had not established specific criteria to be applied by the public interest test, the FCC determined that the public interest benefits of a particular ETC designation must be analyzed in a manner that: a) is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; b) ensures the availability of quality telecommunications services at just reasonable and affordable rates; and c) promotes the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high cost areas. When implementing the foregoing principles, the FCC stated that it would utilize a fact-specific process to consider a variety of factors, including an examination of the benefits of increased consumer choice, and the unique advantages and disadvantages of the competitor's service offering¹. "In determining whether an ETC has satisfied these criteria, the [FCC] places the burden of proof upon the ETC applicant." ETC Order, para. 44.

Moreover, in areas where an ETC applicant seeks designation below the study area level of a rural telephone company, the FCC said it will also conduct a "creamskimming" analysis that compares the population density of each such wire center in which the ETC applicant seeks designation against that of all wire centers in the study area in which the ETC applicant does not seek designation. ETC Order, para 41.

The FCC declined to adopt a specific test to discern use whether designation of an ETC will affect the size and sustainability of the high-cost fund, but it did identify the level of federal high-cost per-line support in a given wire center as one relevant factor in considering whether an additional ETC designation is in the public interest. ETC Order, para's 54-55.

The ETC Order strongly encourages state commissions to implement the FCC's

¹ At paragraph 44 of the ETC Order, the FCC focused on the following specifics:

(1) Consumer Choice: The Commission takes into account the benefits of increased consumer choice when conducting its public interest analysis. In particular, granting an ETC designation may serve the public interest by providing a choice of service offerings in rural and high-cost areas. The Commission has determined that, in light of the numerous factors it considers in its public interest analysis, the value of increased competition, by itself, is unlikely to satisfy the public interest test. [Footnotes omitted.]

(2) Advantages and Disadvantages of Particular Service Offering: The Commission also considers the particular advantages and disadvantages of an ETC's service offering. For instance, the Commission has examined the benefits of mobility that wireless carriers provide in geographically isolated areas, the possibility that an ETC designation will allow customers to be subject to fewer toll charges, and the potential for customers to obtain services comparable to those provided in urban areas, such as voicemail, numeric paging, call forwarding, three-way calling, call waiting, and other premium services. The Commission also examines disadvantages such as dropped call rates and poor coverage. [Footnotes omitted.]

framework for analyzing the public interest, in order to promote a consistent approach in applying the universal service principles of preserving and advancing universal service and competitive neutrality, and improving the long-term sustainability of the USF. E.g., ETC Order, para's. 41 & 58. However, the FCC also acknowledges that state commissions have effectively used additional factors in their public interest analysis, *id.*, para. 40, and recognizes that state commissions may reasonably conduct different analyses, or reach different outcomes, depending on the particular circumstances they face. *Id.*, para. 43. Accordingly, the Commission will adopt and implement the FCC's analytical framework, so that the guidelines described in the ETC Order will be the minimum guidelines applied in this proceeding. However, in this and any future proceeding, we reserve our discretion to supplement, or depart from, the FCC's framework when Illinois circumstances suggest that we do so.

In the instant case, MTI believes it has demonstrated that its application for ETC designation is in the public interest, within the meaning of the ETC Order. MTI asserts that it is in a unique position to serve the public interest when providing USF assistance, because it is the carrier of last resort for many of its customers. Approximately 85% of MTI's customers have been disconnected by the incumbent carrier for lack of payment. Of those disconnected customers, approximately 90% qualify for USF assistance. MTI avers that end-users who have been disconnected by the incumbent often have nowhere else to go for phone service. MTI argues that these are the very people that the USF was meant to assist. Applicant's Exhibit 1 at 2. No party contends that MTI does not meet the public interest test.

In the Commission's view, the designation of MTI as an ETC will increase customer choice for low income consumers eligible for Lifeline and Link-Up support in the areas requested. Insofar as such customers are enabled to obtain telecommunications service, they will likely benefit from additional rate plan options and increased access to emergency services.

With respect to "cream skimming," MTI does not seek designation below the study area level of a rural telephone company and, therefore, no cream skimming analysis is required.

The Commission notes that MTI's specific voluntary commitment to comply with the guidelines in the ETC order - and specifically with Staff's tailoring of those guidelines to fit both the Commission's existing rules and precedents and the particular circumstances of MTI's Application - is a critical component supporting a positive public interest finding. Thus, subject to the commitments and conditions discussed in this Order, the Commission concludes that MTI has shown that its designation as an additional ETC is in the public interest for its proposed ETC designated area.

C. MTI's Commitments and Resulting Conditions

Staff recommends that MTI's explicit commitments (discussed above) be made conditions to this Order. We agree, although we note that these are not conditions upon

MTI's certification as a telecommunications provider, but conditions MTI must satisfy in order to warrant ETC status. For clarity, we list below MTI's commitments, which we find to be necessary and appropriate conditions for MTI's ETC designation.

1. All "low income" USF funding received will be used to support subsidized rates for MTI's Lifeline and Link-Up customers, and MTI shall certify this use.
2. MTI shall notify the ICC within three weeks of any future change that would render it eligible to receive USF "high cost" support.
3. MTI shall file an appropriate revised five-year spending plan to account for permissible use of all "high cost" USF support received. MTI commits to filing this plan within six weeks after notifying the Commission of any change that would render it eligible to receive USF "high cost" support.
4. MTI shall advertise to the public in its ETC-designated area that it is offering the supported universal services, and the charges for those services, in local circulation newspapers in each of Applicant's serving areas. MTI shall also advertise to the public the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for such services, and in compliance with the requirements of 83 Illinois Administrative Code Part 757.
5. MTI shall provide Lifeline subscribers "equal access" to interexchange carriers of their choice.
6. MTI shall abide by its commitment to provide service throughout its ETC-designated service area to all customers who make a reasonable request for service, including all qualifying low-income customers.
7. MTI will comply with all applicable statutes and rules affecting ETC status and obligations.
8. MTI will comply with all annual reporting and certification requirements as set forth herein.
9. Should MTI fail to abide by any of these commitments, the Commission could, upon proper notice and hearing, revoke MTI's designation as an ETC.

D. Conclusion

Subject to the commitments and conditions found appropriate in this Order, the Commission finds that MTI has met the requirements of Section 214(e) and the FCC's ETC Order and rules. Moreover, MTI has committed to comply with all applicable Commission requirements. All "low income" USF funding received by MTI will be used to support subsidized rates for its Lifeline and Link-Up customers. Accordingly, MTI should be designated as an ETC in the requested study area for purposes of receiving federal "low-income" USF support.

IV. FINDINGS AND ORDERING PARAGRAPHS

The Commission, after reviewing the record herein, is of the opinion and finds that:

- (1) Midwestern Telecommunications, Inc., is a provider of local and interexchange services in Illinois;
- (2) the Commission has jurisdiction over the Applicant and the subject matter of this proceeding;
- (3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) the conditions found appropriate in this Order should be imposed in connection with the ETC designation to be granted herein, and the granting of such designation is subject to compliance with those conditions;
- (5) Midwestern Telecommunications, Inc., shall be designated as an Eligible Telecommunications Carrier for purposes of receiving federal low-income Lifeline and Link-Up Universal Service support from the Federal Universal Service Fund with respect to the requested ETC service area, which is in the AT&T incumbent service territory.

IT IS THEREFORE ORDERED that Midwestern Telecommunications, Inc., is hereby designated, effective as of the date of this Order, as an eligible telecommunications carriers for purposes of receiving federal low-income Lifeline and Link-Up Universal Service support in the ETC designated service territory, which is in the AT&T incumbent service territory, pursuant to Section 214(e)(2) of the Telecommunications Act of 1996.

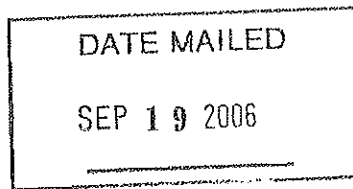
IT IS FURTHER ORDERED that Midwestern Telecommunications, Inc., shall comply with the conditions set forth in Section III.C of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 26th day of September, 2006.

(SIGNED) CHARLES E. BOX

Chairman



BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Midwestern Telecommunications Inc., for Authority
to be Designated as an Eligible Telecommunications Carrier

7184-TI-102

FINAL DECISION

This is the final decision in this investigation to determine whether to designate Midwestern Telecommunications, Inc. (MTI), as an Eligible Telecommunications Carrier (ETC), pursuant to 47 U.S.C. § 214(e)(2) and Wis. Admin. Code § PSC 160.13. Designation as an ETC makes a provider eligible to receive universal service fund (USF) monies.

Introduction

MTI filed an application for ETC designation on June 13, 2006. The Commission issued a Notice of Investigation on June 29, 2006. That Notice requested comments, to be filed on or before July 28, 2006. No parties filed comments. The Commission discussed this matter at its August 31, 2006, open meeting.

MTI requested ETC designation for all exchanges served by Wisconsin Bell, Inc., d/b/a AT&T Wisconsin (AT&T). AT&T is a nonrural telecommunications carrier.

Findings of Fact

1. MTI is certified as a reseller in Wisconsin. MTI provides service to its customers using a mix of resold services and unbundled network elements.
2. MTI has committed to providing service to all requesting customers, and to advertise the availability of its service, throughout the exchanges listed in its application, as required under 47 U.S.C. § 214(e) and Wis. Admin. Code § PSC 160.13.

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3. MTI has committed to providing service which meets both the federal requirements for ETCs, and the state requirements set forth in Wis. Admin. Code § PSC 160.13, including the essential service definition set forth in Wis. Admin. Code § PSC 160.03, with the exception of the requirement that an ETC provide a payphone in each municipality, as set forth in Wis. Admin. Code § PSC 160.13(1)(d). MTI has requested a waiver of that requirement.

4. It is reasonable and in the public interest to grant MTI ETC status in the nonrural wire centers in the exchanges indicated in its application.

5. It is reasonable to waive the requirement that an ETC provide a payphone in each municipality, as set forth in Wis. Admin. Code § PSC 160.13(1)(d).

Conclusions of Law

1. The Commission has jurisdiction and authority under Wis. Stat. §§ 196.02, and 196.218; Wis. Admin. Code ch. PSC 160; 47 U.S.C. §§ 214 and 254; and other pertinent provisions of the Telecommunications Act of 1996, to make the above Findings of Fact and to issue this Order.

2. The Commission has the authority to adopt different ETC requirements under Wis. Admin. Code § PSC 160.01(2)(b).

Opinion

ETC status was created by the Federal Communications Commission (FCC), and codified in 47 U.S.C. § 214(e)(2). Under FCC rules, the state commissions are required to designate providers as ETCs. (47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b).) Designation as an ETC is required if a provider is to receive federal universal service funding. ETC designation is also required to receive funding from some, but not all, state universal service programs.

The FCC established a set of minimum criteria that all ETCs must meet. These are codified in the federal rules. (47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.101(a).) The 1996 Telecommunications Act states that: “States may adopt regulations not inconsistent with the Commission’s rules to preserve and advance universal service.” (47 U.S.C. § 254(f).) A court upheld the states’ right to impose additional conditions on ETCs in *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999). States must designate multiple ETCs if more than one provider meets the requirements and requests that status in a nonrural area. (47 C.F.R. § 54.201.)

In the year 2000, the Commission promulgated rules covering ETC designations and requirements in Wisconsin. (Wis. Admin. Code § PSC 160.13.) Those rules govern the process for ETC designation and set forth a minimum set of requirements for providers seeking ETC designation from the Commission.

The Commission finds that MTI meets the requirements for ETC designation. MTI is already providing service in at least some of the exchanges. Annual report data confirms that MTI is already meeting some of the ETC requirements. MTI has certified that it is either currently meeting, or is prepared to meet, all of the federal and state requirements for ETC designation, with the exception of the payphone requirement that is discussed below.

MTI has requested that the requirement that an ETC provide a payphone in each municipality, as set forth in Wis. Admin. Code § PSC 160.13(1)(d), not be applied to MTI. The Commission is authorized under Wis. Admin. Code §§ PSC 160.01(2) and PSC 165.01(3) to adopt different requirements for individual providers in unusual or exceptional circumstances. MTI notes that the Commission has a pending rulemaking, docket 1-AC-198, which proposes

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substantial revisions to that requirement. MTI notes that it would be burdensome to meet the existing requirements, and that any payphones it provided would be redundant, and requests that the Commission not apply that requirement. MTI is willing to meet the proposed requirement. The pendency of the rule change and the redundancy of any payphones MTI would provide create an unusual circumstance. It is reasonable for the Commission to forgo applying the payphone provision as written to this provider, but to instead adopt a different requirement. Thus MTI must work with the other providers in its service area, to jointly ensure that payphones are available.

The FCC has determined that an applicant should be designated as an ETC only where such designation serves the public interest, regardless of whether the area where designation is sought is served by a rural or nonrural provider.¹ The Commission finds that it is in the public interest to designate MTI as an ETC in the areas for which it requests such designation. The Commission is guided by the Wis. Stat. § 196.03(6) factors to consider when making a public interest determination. The Commission finds that designating MTI as an ETC will increase competition in those areas and, so, will increase consumer choice. Further, designation of another ETC may spur infrastructure deployment by other providers and encourage further efficiencies and productivity gains. Additional infrastructure deployment, additional consumer choices, and the effects of competition will benefit consumers and improve the quality of life for affected citizens of Wisconsin.

¹ *In the Matter of Federal-State Joint Board on Universal Service*, FCC 05-46, released March 15, 2005, par. 3.

Order

1. MTI is granted ETC status in the nonrural wire centers served by Wisconsin Bell, Inc., d/b/a AT&T Wisconsin.
2. MTI is an ETC within the meaning of 47 U.S.C. § 214(c), and is eligible to receive federal USF funding pursuant to 47 U.S.C. § 254(2). This order constitutes the certification to this effect by the Commission.
3. MTI is an ETC within the meaning of 47 U.S.C. § 214(c), and is eligible to receive state USF funding consistent with Wis. Admin. Code ch. PSC 160.
4. MTI does not have to meet the requirement under Wis. Admin. Code § PSC 165.088, that it provide a payphone in each incorporated municipality, but MTI is instead required to meet the different requirement, that it work with other providers in its service territory to jointly ensure that payphones are available.
5. Jurisdiction is maintained.

Dated at Madison, Wisconsin, September 18, 2006

By the Commission:



Sandra J. Paske
Secretary to the Commission

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See attached Notice of Appeal Rights

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-32-C

IN RE:

Application of Midwestern
Telecommunications, Inc. for the
Designation as an Eligible
Telecommunications Carrier

)
)
) **Midwestern Telecommunication, Inc.'s**
) **Response to Office of Regulatory**
) **Staff's First Continuing Data Request**
)
)

TO: C. Lessie Hammonds, Esquire, Attorney for the Office of Regulatory Staff ("ORS"):

1.3 Identify any states where Midwestern has a pending application for ETC status.

RESPONSE: California, Georgia, Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, and South Carolina.

Respectfully submitted,

ELLIS, LAWHORNE & SIMS, P.A.


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Attorneys for Midwestern
Telecommunications, Inc.

July 16, 2007
Columbia, South Carolina

**BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

In the Matter of the Application of)
Midwestern Telecommunications, Inc.)
Application for Designation as an Eligible)
Telecommunications Carrier for the)
Purposes of Receiving Federal Universal)
Service Support Pursuant to Section)
214(e)(2) of the Telecommunications Act)
of 1996)
_____)

Docket No. 2007-32-C

This is to certify that I have caused to be served this day, one (1) copy of the **Responsive Testimony of Ikechuku Chinwah** via electronic mail service and by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

C. Lessie Hammonds, Esquire
Office of Regulatory Staff
Legal Department
PO Box 11263
Columbia SC 29211

Margaret Fox, Esquire
McNair Law Firm, PA
PO Box 11390
Columbia SC 29211



Carol Roof
Paralegal

July 24, 2007
Columbia, South Carolina